

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

FRANK KIMBLE,

Plaintiff,

v.

SUPERIOR COURT OF TATTNALL
COUNTY,

Defendant.

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) Case No. CV607-082
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REPORT AND RECOMMENDATION

Plaintiff, proceeding pro se, has submitted a complaint pursuant to 28 U.S.C. § 1651 and a motion to proceed *in forma pauperis*. Docs. 1, 2. As it appears that he lacks the resources to pay the \$350.00 filing fee, his motion to proceed *in forma pauperis* is **GRANTED**.

A case filed *in forma pauperis* must be “dismiss[ed] . . . at any time if the court determines that . . . the action . . . (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). As plaintiff’s complaint is patently frivolous, it should be

DISMISSED.

Plaintiff, a detainee in Valdosta State Prison in Valdosta, Georgia, asks the Court, pursuant to 28 U.S.C. § 1651 (the “All-Writs Act”), to issue a writ of mandamus to compel the Superior Court of Tattnall County to enter a default judgment in his favor in a state civil action. Doc. 1 at 8. The All-Writs Act only permits a federal court to issue a writ when it is “necessary or appropriate in aid of [its] respective jurisdiction[] and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a). “[F]ederal courts have no authority to issue writs of mandamus to direct state courts or their judicial officers in the performance of their duties.” Haggard v. Tennessee, 421 F.2d 1386 (6th Cir. 1970); see also Moye v. Clerk, DeKalb County Super. Ct., 474 F.2d 1275, 1276 (5th Cir. 1973). This Court, therefore, is without “authority to issue a writ of mandamus directing the state court to rule on [plaintiff’s] pending motions.” Nabelek v. Collins, 48 F. App’x 104, 104 (5th Cir. 2002). As “the relief requested would not be in aid of the jurisdiction of a federal court,” id., or “agreeable to the usages and principles of law,” 28 U.S.C. § 1651(a), plaintiff’s complaint presents no issue of merit and should therefore be **DISMISSED**

as legally frivolous.

SO REPORTED AND RECOMMENDED this 11th day of
December, 2007.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA